

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DAVID L. COX and DEBORAH L. COX,

Plaintiffs,

v.

AVERITT EXPRESS, INC. and RICHARD
KORNACKER

Defendants.

Case No. 05-cv-4182-JPG

ORDER

This matter comes before the Court pursuant to the November 7, 2005, order to show cause why this case should not be dismissed for lack of subject matter jurisdiction (Doc. 7). In an October 21, 2005, order (Doc. 4), the Court noted a defect in the plaintiffs' jurisdictional allegations. The Court gave the plaintiffs up to and including November 4, 2005, to further amend the amended complaint to correct the jurisdictional defect. The Court further warned the plaintiffs that their failure to amend the faulty pleading could result in dismissal of this case for lack of subject matter jurisdiction or for failure to prosecute. The plaintiffs failed to timely amend the pleading to correct the defect, so on November 7, 2005, the Court ordered the plaintiffs to show cause on or before November 18, 2005, why the Court should not dismiss this case for lack of subject matter jurisdiction or for failure to prosecute (Doc.7). The Court warned the plaintiff that it would construe a failure to respond in a timely manner as an admission that the Court does not have subject matter jurisdiction over this case and would dismiss this case. The plaintiffs did not respond to the order to show cause. Therefore, as it warned it would do in its November 7 order, the Court construes the failure of the plaintiffs to respond to the order to show cause as an admission that the Court does not have subject matter jurisdiction over this

action. Accordingly, **DISMISSES** this action **for lack of subject matter jurisdiction** and **DIRECTS** the Clerk of Court to enter judgment.

IT IS SO ORDERED.

DATED: December 5, 2005

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE